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SIPDIS

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STATE FOR SA/FO (DAS GASTRIGHT), SA/A, S/CR, SA/PAB,
S/CT, EUR/RPM
STATE PASS TO USAID FOR AID/ANE, AID/DCHA/DG
NSC FOR AHARRIMAN, KAMEND
OSD FOR BREZINSKI
CENTCOM FOR CG CFC-A, CG CJTF-76, POLAD
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SUBJECT: CRIMINAL LAW REVISION SPURS NEW LEVEL OF
COOPERATION

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1.(SBU) SUMMARY: ROL Coordinator and UNAMA
representative met with the Afghan Minister of
Justice to ascertain the status of Afghan efforts to
review its Interim Criminal Procedure Code and
ensure international participation in the process.
Min. Danish welcomed professional input from the
USG-chaired International Review Committee,
identified other outstanding laws still in the hands
of the internationals, and reiterated the need for
more transparency and coordination with the USG. We
are taking actions to make this happen. END
SUMMARY.

12. (SBU) Ambassador Baltimore, Counselor for Rule
of Law and Charles Briefel, Senior Rule of Law
Officer for the United Nations Assistance Mission in
Afghanistan (UNAMA) met with Afghan Minister of
Justice Danish on June 17 in the latter's office to
seek clarification regarding the status of Afghan
efforts to revise the existing Interim Criminal
Procedure Code.

Status of Criminal Procedure Law

13. (SBU) From Danish's perspective, many different
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Afghan institutions, including the Supreme Court,
Attorney General's Office and the Afghan National

Police have serious problems with the Italian-drafted Interim Criminal Procedure Code that was put into effect by purely executive action before the legislative branch came into being. According to Danish, approximately two weeks ago, the Afghan Parliament officially asked the MOJ to review the Interim law by taking into account other relevant laws, local criticisms and input from the international community.

¶4. (SBU) Ambassador Baltimore briefed the Minister on the USG-chaired International Review Committees ongoing and fruitful efforts to harmonize international views by regular meetings on the criminal procedure code. The Minister agreed to review a submission from the committee of key legal principles with detailed examples of their relevance to Afghan law, as part of the review process.

POC Confusion

¶5. (SBU) At various points throughout the meeting, the Minister made it clear that he wants to deal with rule of law questions in a clear and coordinated manner, but is very confused as to who represents USG views. He also decried what he sees as unreasonable delays on the part of the international community's review of draft legislation that the ministry passed to them many months ago. He cited the Law on Defense Attorneys and the Law on the Organization of the Attorney

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Generals Office as two examples of drafts that have been before the international community for nearly one year, and said that a draft anti-terrorism law was not far behind.

Sensitivities

¶6. (SBU) Danish was clearly upset over what he believed was an USAID report that he felt unjustly blamed the MOJ for not having a set of commercial laws in place, when, he maintained, it was the primary responsibility of the Ministry of Commerce. (The paper he was upset about was eventually identified as not a USAID product). This appeared to be the first chance he had to vent on this irritant.

We want USG Involvement

¶7. (SBU) Minister Danish specifically asked that Ambassador Neumann be made aware that the Minister needs and wants help far beyond assistance with legislative drafting. He mentioned broad needs to address the current security situation, the lack of a suitable physical infrastructure from prisons to police, and the need for program development and training (in addition to the current INL/CSSP programs.)

Comment; Next Steps

¶8. (SBU) Comment: Danish's agreement to receive

direct input from the USG chaired International Review Committee (IRC) is a welcome breakthrough (present membership includes INL, DOJ, UNAMA, IDLO, and UNODC).

The Ministers comments about delay in the reorganizing the Attorney Generals Office is is inaccurate. The draft in questions is back in the AGOs office for further work, it is not in the hands of the internationals. Meanwhile, --We will quickly dispense with Danishs frustration with the proliferation of rule of law POCs by sending him a letter clarifying the position of the Coordinator for ROL from the USG standpoint; --We will seek IRC agreement to take on expeditious handling or at least an accounting of the laws Danish believes are overdue, and, --We will speed up the IRCs initial thoughts on the revised Criminal Procedure Law and get them into Danish hands. End Comment.

NEUMANN

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